THE EFFECTIVENESS OF KUNINGAN GOVERNMENT POLICY IN WATER CONSERVATION

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Abstract

Preserving environmental functions particularly water resources conservation is a shared task between government and public to achieve environmental sustainability. The purpose of this paper is to examine the effectiveness of Kuningan government policy in conserving water resources. This study uses empirical juridical method with descriptive analysis. The data collection of primary data is done by observation, interviews with related institutions while secondary data are in the form of legislation and legal theories. This research takes place in Kuningan regency, West Java province. The data are analyzed to examine the effectiveness of Kuningan Government policies in water resource conservation. The results reveal that District Regulation Number 12 Year 2007 on Water Resources Conservation and Kuningan District Regulation Number 12 Year 2011 on the Implementation of Kuningan Botanical Gardens along with other related Regulations and Government policies in Kuningan Regency have been effectively implemented. It can be seen from the sufficiently given regulations as well as community participation.

Keywords: effectiveness, policy, water conservation

Abstrak

Pelestarian fungsi lingkungan hidup khususnya konservasi sumber daya air merupakan tugas bersama antara pemerintah dan masyarakat sehingga tujuan kelestarian lingkungan hidup tercapai. Tujuan penulisan ini untuk mengetahui efektivitas kebijakan pemerintah daerah kabupaten kuningan dalam konservasi sumber daya air. Penelitian ini mengunakan metode penelitian yuridis empiris dengan deskriptif analisis. Pengumpulan data melaui data primer yaitu observasi, wawancara pada lembaga-lembaga tekait dan data sekunder yaitu peraturan perundang-undangan serta teori-teori hukum. Penelitian di Kabupaten Kuningan Provinsi Jawa Barat. Data dianalisis untuk mengetahui efektifitas kebijakan pemerintahan daerah kabupaten kuningan dalam konservasi sumber daya air. Hasil penelitian bahwa pemerintah daerah kuningan mempunyai Peraturan Daerah Kabupaten Kuningan Nomor 12 Tahun 2007 tentang Konservasi Sumber Daya Air dan Peraturan Daerah Kabupaten Kuningan Nomor 12 Tahun 2011 tentang Kebun Raya Kuningan serta peraturan lainnya dan Kebijakan pemerintah daerah kabupaten kuningan dalam konservasi sumber daya air sudah berjalan efektif yaitu bisa dilihat dari ketersediaan peraturan-peraturan serta partisipasi masyarakat.

Kata kunci: efektivitas, kebijakan, konservasi sumber daya air

Introduction

Environment conservation is a shared task between government and public for social harmonization in the implementation to achieve environmental sustainability. Constitutionally, it is stated in Article 28 h of paragraph (1) which states that "every person lives in physical and spiritual prosperities, reside and deserve an appropriate and healthy living environment as well as health services" and Article 33 paragraph (3) which states "Earth and water and natural resources within are controlled by the state and utilized for the benefit of the people". In Article 28, it is said that every citizen has right for a good and healthy environment, enforcement of environmental law as an instrument to create a good and healthy environment. Law No. 37 of

Ω Research Results with a Decree of the Rector Universitas Kuningan, Contract Number 2.066/SPK/LPPM.P-UNIKU/KNG/2016, June 10th 2016.

2014 on Soil and Water Conservation focuses on land-use and land as an instrument in environment conservation.

Kuningan Regency is an agricultural area located at the slope of Ciremai Mountain. It is located in the eastern part of West Java. There are five main problems identified in Indonesia, such as:[1] *first*, land degradation due to deforestation, illegal logging, land conversion for plantations and industrial plants, oil extraction, industry and residence; *second*, abrasion due to the river's traffic; *third*, silting up of the river by the high erosion, abrasion and sedimentation; *fourth*, disruption of surface water flow patterns due to land conversion, ports, docks, and logpond; and *fifth*, decreasing water quality due to discharge of industrial wastewater, domestic ship water disposal, and domestic solid waste disposal. In 2006, Kuningan regency has declared a conservation regency; therefore to realize Kuningan as a conservation regency in the policy, it should be supported by all stakeholders both local government and society in Kuningan. This study is expected to be able to measure and determine the extent to which the effectiveness of Kuningan government policies in the conservation of water resources is applied. These environmental issues can be evaluated from medical aspect, planological technology, environmental engineering, economics and law. Siti Sundari Rangkuti states that the legal facets of environmental management and conservation of natural resources in Indonesia needs to be studied intensively because environmental management is impossible without rule of law. It does not mean that lawyers can deal with environmental problems apart from other disciplines related to the environmental field.[2]

Based on the aforementioned background, the problems are formulated as follows. *First*, how Kuningan Government's policy in Water Resources Conservation is; and *second,* How the effectiveness of Kuningan Govern-ment's Policy in Water Resources Conservation is.

Research Method

This study uses empirical juridical method with descriptive analysis. In collecting primary data, the writer used observation and interviews at related institutions such as BPLHD, Forestry Department while secondary data were obtained from legal documents and legal theories. This research is in Kuningan regency, West Java province. The data were then analyzed to determine the effectiveness of Kuningan government's policies in the conservation of water resources.

Discussion

Kuningan Government's Policy in Water Resources Conservation

Roscoe Pound proposing a concept called *"law is tool of social engineering"* provides a basis that law is used as a means of change in society; the law should play an active role in manipulating social change in society to be a driving factor towards better society change[3]. The Development Law by Muchtar Kusumaatmadja based on Roscoe Pound theory provides a basis for the legal function as a Tool for Community Renewal.[4]

Definition of water resource conservation according to Article 1 (14) of Kuningan Government Regulation Number 12 Year 2007 on the Conservation of water resources is an attempt to maintain the environmental existence and stability, the nature and function of the water resources for sustainable availability both in quantity and quality to meet living beings necessity in the present and the future. According to Article 1 (2) of Law Number 37 Year 2014 on Land and Water Conservation states that soil and water conservation is an effort to protect, restore, enhance, and maintain functions of soil in accordance with their capabilities and land

[1] Nana Sudiana and Hasmana Soewandita, "Pola Konservasi Sumber Daya Air di Daerah Aliran Sungai Siak", *Jurnal Alami,* Vol. 12 No. 1, 2007, pp. 44-51.

[2] Siti Kotijah, "Implementasi Prinsip-prinsip Kehutanan dalam Rangka Konservasi Kehutanan: studi kasus di Jawa Timur", Jurnal Magister Hukum, Vol. 1 No. 2, 2010, pp. 354-386.

[3] Abdul Manan, 2014, *Peranan Hukum Dalam Pembangunan Ekonomi*, Jakarta: Kencana, p. 47-48.

[4] *Ibid*, p. 51-52.

allotment to support sustainable development and living things.

In Islam, humans are given full responsibility for the use and management of natural resources "It is God, who makes everything on earth for you (QS. Al-Baqarah 2: 29). " He has created you from clay and makes you as the users. (QS. Hud 11: 61). Islam requires five (5) criteria to be considered in managing the resource.[5] *First*, giving a reasonable place to others and other creatures (QS. Al-Israa'17: 20). *Second*, preserving the balance of size (natural laws) determined by Allah (QS. Al-Hijr 15: 19). In the context of the amount of forest to support Indonesian forests and sustain the world, it becomes considerable. *Third*, using sensible (useful knowledge) and taste (beauty and art) with the goal of bringing people to show gratitude and admire God's mercy. *Fourth*, not being exaggerated (QS. Al-A'raaf 7: 31; al-An'am 6: 141). *Fifth*, thanking, devoted and takes the wisdom (QS. Al-Rum 30: 46; Al-Syuuraa 42:33). Those verses clearly state that man was created by God to maintain, manage or attach and prosper-ity of the earth with a diverse wealth of natural resources that exist without exploitation or destructtion. Islam has warned human behaviors that negatively exploit natural resources (QS. Al-Hijr 22: 18). It is clear that there are natural disasters as the result of human behavior that has exceeded the limit in exploiting the resources and disturbing natural balance (QS. Al-Rum 30: 41). This warning is not necessarily understood dogmatively and normatively, rather, it implies how "the warning" becomes the basis for the prevention, rescue and protection. Therefore raising and developing spiritual consciousness (religion) of the importance of human to maintain and manage natural resources can be vision of Indonesian Muslims to deal with climate change and global warming. Global warming is the greatest impact on human lives and their environment.[6]

The concept of sustainable and environmental development as a goal in environmental management showed that both are part of environmental management concept. There are six (6) environmental administrative law instruments that can be used in creating environmental management based on sustainable development such as:[7] *first*, environmental quality standards; *second*, licensing mechanism for environmental management; *third*, environmental Impact Analysis; *fourth*, environmental audit in environmental management; and *fifth*, enforcement of administrative sanctions in environmental management. Sustainable development requires ecological balance as stated by Johan Galtung who argued that sustainable development as a process to meet basic human need is done by considering ecological balance (the proces of meeting basic human need while maintaining the ecological balance).[8] National development from planning must be comprehensive involving all related elements and most importantly it must be linked explicitly to the spatial structure.[9]

According to Anik Sarminingsih, water resources management has to consider 7 (seven) principles as follows:[10] Sustainability, implies that the utilization of the water resources is organized to preserve the function of the water resources ecologically; balance, implies to put social functions, environmental function, and economic functions harmoniously; Public Benefit, implies that water resource management is carried out to provide the greatest benefit for public effectively and efficiently; cohesion and harmony, implies that integrated management of water resources is done to realize the consistency for various needs by taking account of the water dynamic nature; Justice, implies that management of water resources is done propor-

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5 Choirul Mahfud, "Transformasi Fikih Lingkungan: Respon Islam atas Fenomena Global", *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 8 No. 1, June 2008, pp. 71-92.

6 Sri Wartini, *"Regulation Urgency of Climate Change Refugees Protection in the Perspective of Internasinal Law"*, *Jurnal Dinamika Hukum*, Vol. 17 No. 1, January 2017, pp. 15-22.

7 Sukanda Husien, 2009, *Penegakan Hukum Lingkungan Indonesia*, Jakarta: Sinar Grafika, p. 93.

8 Mukhlis and Mustafa Lutfi, 2010, *Hukum Adminisrasi Lingkungan Konteporer*. Malang: Setara Press, p. 265.

9 *Ibid*, p. 75.

10 Anik Sarminingsih, "Evaluasi Kekritisan Lahan Daerah Aliran Sungai (DAS) dan Mendesaknya Langkah-Langkah Konservasi Air", *Jurnal PRESIPITASI,* Vol. 2 No. 1, September 2007, pp. 8-14.

tionally for communities in the country sto enable each citizen to have equal opportunity in participating and relishing the results and providing protection to low economic society; self-reliance, refers to understanding that water resources management is done with the capability,the advantages, norms and local resources; Transparency and Accountability, implies that the management of water resources is open and responsible.

By the seven principles, water resources need to be managed comprehensively, integrated and eco friendly to realize the benefits of sustainable water resources for the maximum benefit of the people in accordance with Article 33 1945 Constitution, through five missions management,[11] namely: *first*, water resources conservation; *second*, water resources exploitation; *third*, water damage control; *fourth*, public, private, and government role empowerment increase; *fifth*, openness and availability of data/ information about water resources. In 2006, Kuningan Regency has declared conservation regency and as the implementation of Law Number 41 Year 1999 on Forestry. Then in 2007, it published Kuningan government Regulation Number 12 Year 2007 on Water Resources Conversation. To realize it, supports from all stakeholders both local government and Kuningan community are required. Overcoming challenges of water resources conservation requires a strong political commitment from the government to conduct holistic water management policies including anticipating the challenges of conservation at the time of operation of water carried by private corporation.[12]

Local Government plays a strategic role in providing knowledge and efforts to increase the understanding and implementation of water conservation in the whole society that can be grouped into three (3) target namely:[13] *first*, politicians and policymakers; they need to understand how water conservation awareness can help solve the problem of water shortage while providing socio-economic and environmental benefits; *second*, management and role of water experts involves planning, developing, and managing of the water system, including managers and scientists working for the preservation of the environment; *third*, mass media and educators; their knowledge of the water sector might be few but they are experts in public relations, communications, marketing, and education. This step is explained to them how diverse expertise can support the achievement of water conservation awareness in the community.

Conservation of water resources requires the rules binding all parties, especially in the spatial and territories distribution. It makes it easier to set up those parts which become conservation area needs arranging and stating spatial based on the following steps:[14] *first*, determining the direction of development to be achieved in terms of economics, social, culture, environmental capacity, as well as security and defense functions; *second*, identifying the potentencies and problems of development in a planning area; *third*, formulating spatial planning; *fourth*, determining the spatial plan.

In the handling of environmental issues, handling of preventive law by means of administrative law occupies an important position since the function departed from the principle of prevention at source (reduction at the source principle). As a result, the process of law enforcement through the legal means of administration are considered more fulfilling protection functions "right to a good environment and healthy" as a constitutional right.[15] Other efforts as an alternative way to support conservation in question are:[16] *first*, determination/ownership of agricultural crops in accordance with the

[11] *Ibid. page. 7.*

[12] Budi Widianarko, "Privatisasi dan Tantangan Konservasi Sumber Daya Air", *Jurnal Renai edisi Air*: Hak Asasi Versus Komodifikasi, Tahun V No. 1, 2005, pp. 49 -57.

[13] Anik Sarminingsih, "Kajian Upaya Konservasi Sumberdaya Air dalam Peningkatan Kesadaran Masyarakat", *Jurnal PRESIPITASI,* Vol. 5 No. 2, September 2008, p. 42-48.

[14] Sutedjo, "Keterpaduan Kebijakan Lingkungan dan Tata Ruang", *Jurnal Yustisia,* Vol. 72, September-December 2007, pp. 15-26.

[15] Kartono, "Penegakan Hukum Lingkungan Administratif Dalam Undang-Undang Perlindungan Dan Pengelolaan Lingkungan Hidup", *Jurnal Dinamika Hukum*, Vol. 9 No. 3, September 2009, pp. 247-257.

[16] Karolina Sitepu, "Beberapa Alternatif mendukung Konservasi Hutan dan Air serta Kelangsungan Hidup", *Jurnal Ilmiah Abdi Ilmu*, Vol.1 No. 1 September 2008, pp. 26-33.

heights of (downstream, lowland/high and upstream); *second*, behavior of mining excavation (on the river bodies unsupervised); *third*, supervision of dewatering the underground; *fourth*, based on these descriptions, to achieve conservation goals, Kuningan government makes efforts in terms of policy to make regulations relating and supporting to the conservation of water resources, namely:[17] *first*, Kuningan District Regulation Number 12 Year 2007 about the Conservation of Water Resources; *second*, Kuningan District Regulation Number 10 Year 2009 on Preservation of Animals Birds and Fish; *third*, Kuningan District Regulation Number 15 Year 2009 on water resource management; *fourth*, Kuningan District Regulation Number 12 Year 2011 on the Implementation of Kuningan Botanical Gardens; *fifth*, Kuningan District Regulation Number 13 Year 2011 on the Management of Forest; *sixth*, Kuningan District Regulation Number 26 Year 2011 on Spatial Planning in Kuningan from 2011 to 2031; *seventh*, Kuningan Regent Decree 522/KEP.01-The Forestry/2006 concerning the Rare Plant Species in Kuningan; *eighth*, Kuningan Regent Instruction Number 02 Year 2011 on the Implementation of Environmental Care Reform Program in Kuningan Regency. In addition to make policies relating to the status of Ciremai Mountain Protected Forest, it makes Forest City and a reservoir or *Embung* in various areas in the district of Kuningan.

The Effectiveness of Kuningan Government in Water Resources Conservation

The effectiveness of Kuningan government policies in the conservation of water resources according to the author can be assessed based on the theory of the effectiveness of the law according to Soerjono Soekanto[18] that there are five (5) factors stating whether the law is effective or not, namely: law factor (legislation); law enforcement factor, namely the parties that form and apply the law; facilities factor to support the rule of law; community factor, namely the environment in which they may apply or may be applied; cultural factor, namely as a result of the work, creativity and taste which is based on human initiative in social life.

These five factors are tightly inter-related because the essence of the law is also a benchmark rather than the effectiveness of law enforcement. In the first element, whether it can determine the functioning of the written law properly or not depends on the rule of law itself. According to Soerjono Soekanto[19] measurements for the effectiveness of the first element are: systematic existing legislation regarding to certain areas of life; existing legislation regarding certain areas of life which has been already synchronous, hierarchical and horizontal in which there is no contradiction; sufficient Qualitative and quantitative rules governing certain areas of life; the presence of specific regulations in accordance with the requirements of the existing jurisdiction.

Based on the size factor of law, the policy of water resources conservation has fulfilled the elements to measure the effectiveness of First elements and the result proves the existing rules regarding to the areas of water resources conservation is quite systematic; the policy has been systematically made; Existing legislation regarding to the conservation of water is sufficiently synchronous, hierarchically and horizontally and there is no disagreement; Qualitative and quantitative rules governing the conservation of water resources are sufficient, conservation policy is sufficient; and the presence of specific regulations is in accordance with the requirements of the existing jurisdiction.

Relating to the law enforcement officers, it is expected that there are reliable apparatus so that officials can do their job well. Reliability in this case relates to professional skills and has a good mental. Soerjono Soekanto[20] states that the problems affecting the effectiveness of the written law in terms of the apparatus, will depend on the following: *first*, the

[17] Suwari Akhmaddhian, "Peran Pemerintah Daerah Dalam Mewujudkan Hutan Konservasi Berdasarkan Undang-undang Nomor 41 tahun 1999 tentang Kehutanan (Studi di Kabupaten Kuningan)", *Jurnal Dinamika Hukum*, Vol. 13 No. 3, September 2013, pp. 446-457.

[18] Soerjono Soekanto, 2008, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Jakarta: PT. Raja Grafindo Persada, p. 8.

[19] *Ibid*, p. 18.

[20] Soerjono Soekanto, *op.cit*, p. 8

extent to which the officers are bound by the existing rules; *second*, the extent to which the officer may provide wisdom; *third*, what kind of role model that should be given by the officers to the public; *fourth*, to what extent is the degree of synchronization of assignments given to officers to provide firm limits on its authority.

Based on the size of the law enforcement apparatus, a policy of conservation of water resources has met the effectiveness of the second element, namely the extent to which the officer is bound by the existing rules; The extent to which the officer may provide wisdom; What kind of role model that should be given by the officers to the public; To what extent is the degree of synchronization of assignments given to officers to provide firm limits on its authority. The policy of water resources conservation is done by government and showing a figure through the program and the implementation of environmental care personnel to clean the river and charge based on the duties and competence.

Next, it relates to facility factors in the form of facilities and infrastructure for government offficers in doing its job. Facilities and infrastructure mean the infrastructure or facilities used as a tool to achieve the effectiveness of the law. In connection with the facilities and infrastructure, Soerjono Soekanto[21] predicts benchmark of the effectiveness of certain elements of the infrastructure, where infrastructure should clearly be a part that contributes to the smoothness of the tasks forces. These elements are: *first*, whether the existing infrastructure has been well maintained; *second*, infrastructure that does not exist should be held taking into account the number of time of the procurement; *third*, incomplete Infrastructure needs to be completed; *fourth*, damaged infrastructure needs to be improved; ***Fifth***, Jammed infrastructure needs to be waged functions; and *sixth*, a setback functions infrastructure needs to be improved its functions.

Based on the size facility factor, it means that the policy of water resources conservation has fulfilled the effectiveness of the third element, namely providing advice physically namely the Kuningan botanical gardens, city forests, reservoirs, ponds, as well as transportation equipment and means of non-physical ones, namely institutional support conservation policy of water resources such as UPTD in charge of the conservation of water resources.Then some elements of measuring effectiveness depend on the condition of society, namely: factors that cause people do not stand for the rules even though they are good; factors that cause people do not follow the rules even though the rules are very well and it is commanded by officers; factors that cause people do not follow the rules either officer or commanding officer as well as adequate facilities.

Based on the community factors, policy of water resources conservation has met the effectiveness of the fourth element, namely the support of the community in the form of participation in the conservation of water resources through community-activities like a bride care about the environment, the apparatus cares environment, students care the environment and the fulfillment of car free day program.[22]

Based on the factor of culture, a system of organized norms and values, the Kuningan government policy has met the effectiveness of the fifth element i.e. the culture like reviving the cultures that support the conservation of water resources for example “Kawin Cai” as a culture to maintain the fountain and evoke the cultures to support conservation in this case is the culture of planting trees for the future. Based on the description above, the writer draws conclusion that local government policy in Kuningan in the conservation of water resources is quite effective despite some shortcomings that need to be maintained and developed. It involves conservation policy must be comprehensive, especially relating to the licensing of investment, construction of housing and office space or relating to the land that

[21] *Ibid*. p. 50

[22] Suwari Akhmaddhian, and Anthon Fathanudien. “Partisipasi Masyarakat dalam Mewujudkan Kuningan sebagai Kabupaten Konservasi (Studi di Kabupaten Ku-ningan)”. *Jurnal UNIFIKASI*, Vol. 2 No. ,1 2015, pp. 67-89.

would intersect with Kuningan spatial Planning; the housing construction is inevitable but it must be controlled so that the public interest relating to residence is met as well as the conservation of water resources.

Conclusion

Kuningan Government's policy in Water Resources Conservation in accordance with the concept of the State of Law enables policy of water resources conservation to be based on the legislation in Indonesia, Legal Theory Development as a basic theory in the renewal of society, especially conservation of water resources and theory of authorities used by the government of Kuningan Regency to make efforts in this regard by making policy in the form of regu-lations related to supporting the conservation of water resources. Regulations include Kuningan District Regulation Number 12 Year 2007 on the Conservation of Water Resources and Kuningan District Regulation Number 12 Year 2011 on the Implementation of Kuningan Botanical Gardens as other Regulations.

The effectiveness of Kuningan government policies in the conservation of water resources can be measured if it is effective or not. Effectiveness of legal theory by Soekanto Soerjono states that the effectiveness of a law is determined by five (5) factors, namely: legislation factor; law enforcement factor, namely the parties that form and applying the law; facility factor to support the rule of law; community factor, namely the environment in which they may apply or applied; cultural factor, namely as a result of the work, creativity and taste which is based on human initiative in social life. Based on above theory, Kuningan Government policy in water resource conservation has been fulfilled and effective that can be seen from the availability of sufficient regulations, existence of government agencies as well as community participation supports.

Suggestion

Kuningan Government Policies in water resources conservation needs to be completed by a more comprehensive regulation, especially strengthening to permit residential development focusing on the concept of water resources conservation. It needs to make regulations reinforcing the licensing-based conservation water resources for example when the construction of housing should create pore infiltration wells or holes so that water can soak into the ground, and every home should plant trees;

The effectiveness of Kuningan Government policies in the conservation of water resources is quite effective, and according to the writer, it needs to be strengthened and equipped with legislation, officials need to increase capacity to deal with people who are constantly changing and developing, the infrastructure needs to be improved both in quality and quantity, community should always be educated because Kuningan Regency is committed to the conservation of water resources so it takes full support of the community so that environmental high awareness becomes community culture in Kuningan Regency;

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